

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

RONALD HUTCHISON,)	
)	
Plaintiff,)	
)	
v.)	No. 09 CV 4810
)	
CITY OF EVANSTON, Evanston Police)	Judge William Hibbler
Officer MATT GEORGE, Star #170,)	Magistrate Judge Arlander Keys
)	
Defendants.)	

DEFENDANTS' MOTION FOR BILL OF COSTS

Defendants, City of Evanston and Evanston Police Officer Matt George, Star #170, hereby requests this Court to enter costs in their favor and against Plaintiff in the amount of \$2,980.97 (two thousand, nine hundred eighty dollars and ninety-seven cents), pursuant to Federal Rule of Civil Procedure 54 and 28 U.S.C. §1920. In support of this motion, Defendants have attached the standard form Bill of Costs and supporting documentation. In addition, Defendants state the following.

1. On February 10, 2011, the jury hearing the trial in this case found in favor of the City of Evanston and Matt George on all counts. That same day, this Court entered judgment in favor of the City of Evanston and Matt George and against Plaintiff on all counts of the complaint.¹ As a result of the verdict and the judgment, the City of Evanston and Matt George are prevailing parties under Federal Rule of Civil Procedure 54 and 28 U.S.C. §1920. As prevailing parties, the City of Evanston and Matt George are entitled to have their costs, as that term has been defined, paid by Plaintiff.

¹ The claims tried before the jury were Ronald Hutchison's 42 U.S.C. 1983 Unreasonable Seizure and Excessive Force Claims. The City of Evanston remained as a defendant for purposes of indemnification.

2. Defendants seek \$2,791.98 (two thousand seven hundred ninety-one dollars and ninety-eight cents) in deposition costs, which are recoverable. *See Arachnid v. Valley Recreation Prods., Inc.*, 143 F.R.D. 192, 193 (N.D. Ill. 1992) (“Deposition transcripts are recoverable costs under §1920(2).”) The depositions included in this calculation are the depositions of the following individuals, who were all identified as witnesses for trial and identified by Plaintiff as individuals likely to have discoverable information²: Ronald Hutchison, David Bamberg, Marjorie Figaro, Doctor Rick Gimbel, Matthew George, and Kenneth Carter.
3. Defendants also seek the witness fees to require Delcine Thompson to produce documents relating to the current location of witness David Bamberg and Evanston Northwestern Hospital to produce all medical records relating to Plaintiff. They were each paid \$40.00 (which included the witness fee plus mileage) for a total of \$80.00. Accordingly, Defendant seeks \$80.00 in witness fees, which are recoverable under §1920.
4. Defendants also seek \$17.97 (seventeen dollars and ninety-seven cents) for color photocopies which were used at trial, \$38.90 (thirty-eight dollars and ninety cents) for copying fees paid to Evanston Hospital for copies of Ronald Hutchinson’s medical records, and \$52.12 (fifty-two dollars and twelve cents) for copying fees paid to Saint Frances Hospital for copies of Ronald Hutchinson’s medical records, for a total of \$108.99 (one hundred eight dollars and ninety-nine cents.) Defendants have *not* included the cost for trial exhibits or other copies not listed above. Although such costs are recoverable under §1920, counsel for Defendant – the law firm of Johnston

² Plaintiff Ronald Hutchison specifically identified himself, Marjorie Figan [sic], Matthew George, Kenneth Carter, and any witness disclosed by any Defendant as individuals likely to have discoverable information. Defendants identified Doctor Rick Gimbel and David Bamberg as individuals likely to have discoverable information.

Greene LLC – as a general policy does *not* pass on the cost of copies to its clients.

Because those costs were not charged to Defendants, Defendants do not seek to recover those costs in this motion.

5. As a general rule, a defendant – even a civil rights defendant – is entitled to recover its costs even when a plaintiff claims to have brought the case in good faith. *Gardner v. Southern Railway System*, 675 F.2d 949, 954 (7th Cir. 1982); *see also* Moore’s Federal Practice, §54.101[1][b] at 54-152 (“The mere fact that the losing party litigated the action in good faith is not sufficient ground for denying costs to the prevailing party. This is so even in a civil rights case in which costs are to be taxed against the losing plaintiff.”). The Seventh Circuit has specifically rejected the argument that imposing costs would “chill” civil rights plaintiffs. *Contreras v. Chicago*, 119 F.3d 1286, 1295-96 (7th Cir. 1997).
6. There are only two small, discretionary exceptions to the general rule that costs should be taxed: (1) when the moving party has engaged in misconduct; and (2) when the party to be taxed the costs is indigent. *Mother & Father v. Cassidy*, 338 F.3d 704, 708 (7th Cir. 2003); *Fairley v. Andrews*, 2008 U.S. Dist. LEXIS 28325 (N.D. Ill. 2008).
7. With respect to the first exception, there can be no argument that Defendants or their counsel engaged in any misconduct.
8. With respect to the second exception, there is no evidence that the Plaintiff is indigent. Plaintiff testified in his deposition and at trial that he has a high school diploma, some post-secondary education, and was steadily employed through 2009. Plaintiff at no time gave any indication or provided any evidence that he cannot

currently work or will not be able to obtain gainful employment and pay the costs of this lawsuit in the future. Although Plaintiff has referred to being stabbed at Bill's Blues in Evanston, Defendants have been notified that Plaintiff is currently suing that establishment. Consequently, Plaintiff may recover additional funds as a result of that suit.

9. Even if Plaintiff were indigent, this Court should still exercise its discretion to tax costs against Plaintiff. First, being indigent alone is not sufficient to prevent the taxing of costs. *McGill v. Faulkner*, 18 F.3d 456, 459 (7th Cir. 1994) ("A plaintiff's indigency . . . does not require the court to automatically waive costs to an unsuccessful litigant.") Second, taxing costs, even against indigent plaintiffs "serves the valuable purposes of discouraging unmeritorious claims and treating all unsuccessful litigants alike." *Id.* at 460. Third, this case was not close, and Defendant did not merely prevail on a technicality. *Luckey*, 183 F.3d at 734. This case was tried before a jury, which heard all the evidence, and which rendered a verdict within five hours of retiring for deliberations and lunch. Throughout this litigation, the Plaintiff made very serious allegations against Defendant Matt George – allegations that have long term professional and emotional consequences. For example, Evanston Police Officer Matt George was alleged to have repeatedly punched Plaintiff in the face after Plaintiff had surrendered, breaking Plaintiff's nose. (Indeed, until Defendants were able to establish through the deposition of Dr. Anne Marie Doppenberg to the contrary, Plaintiff alleged that Matt George fractured Plaintiff's skull.) Although the claims against Matt George were quickly and unanimously rejected by the jury, the

claims made by Plaintiff against Matt George will permanently remain as a part of his professional career.

10. Ultimately, the issue is this: “Someone has to bear the costs of litigation, and the winner has much the better claim to be spared them – not just a morally or economically better claim, but under Rule 54(d), a legally better claim.” *Luckey*, 183 F.3d at 734. The Defendants should not be required to bear the burden of this litigation and trial. Defendants’ bill of costs is reasonable and should be taxed against Plaintiff.
11. Defendants respectfully request that this Honorable Court tax Plaintiff \$2,980.97 pursuant to Federal Rule of Civil Procedure 54(d) and 28 U.S.C. §1920.

Respectfully submitted,

s/ Iain D. Johnston

Iain D. Johnston
Johnston Greene LLC
542 S. Dearborn St., Suite 1100
Chicago, IL 60605
(312) 341-3900

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

RONALD HUTCHISON,)	
)	
Plaintiff,)	
)	
v.)	No. 09 CV 4810
)	
CITY OF EVANSTON, Evanston Police)	Judge William Hibbler
Officer MATT GEORGE, Star #170,)	Magistrate Judge Arlander Keys
)	
Defendants.)	

DECLARATION OF IAIN D. JOHNSTON

Iain D. Johnston, pursuant to 28 U.S.C. §1746, states the following on personal knowledge.

1. I am and have been the lead attorney in this matter since it was filed in 2009.
2. I am familiar with the discovery conducted in this case, including the depositions taken.
3. Attached to this declaration are true and correct copies of bills and cancelled checks showing payments for witness fees, copying costs, and deposition costs relating to the depositions of Ronald Hutchison, David Bamberg, Marjorie Figaro, and Doctor Rick Gimbel.
4. The deposition costs to obtain copies of the deposition transcripts of Matthew George and Kenneth Carter were incurred immediately before trial in late January 2011. Accordingly, cancelled checks are not available for these charges and only the true and correct copies of the bills relating to these charges are attached to this declaration.
5. These copies are kept in the ordinary course of business and my firm, Johnston Greene LLC. Additionally, the City of Evanston relies upon these documents.
6. As counsel in this matter, I am one of the people who has access to these documents.
7. If called to testify, I could competently testify to the foregoing.

I certify under penalty of perjury that the foregoing is true and correct.

Executed this 17th day of February, 2011.


s/ Iain D. Johnston

Iain D. Johnston
Johnston Greene LLC
542 S. Dearborn St., Suite 1100
Chicago, IL 60605
(312) 341-3900

CHIMNIAK COURT REPORTING & VIDEO, INC.**Invoice**visit our web site at www.chimniakcourtreporting.com

33 North Dearborn Street

Suite 1301

Chicago, IL 60602

Phone: (312) 781-9111

Fax: (312) 332-6555

Invoice Date

Wednesday, February 03, 2010

Invoice #

3178CPK

Iain D. Johnston
 Johnston Greene
 542 South Dearborn
 Chicago, IL 60606

pd 5/3/10

Ch# 5857

Phone: (312) 341-3900 Fax:

Witness: Ronald Hutchinson**Case:** Hutchinson vs. City of Evanston**Venue:****Case #:** 09 CV 4810**Date:** 1/20/2010**Start Time:** 10:00 AM**End Time:** :0**Reporter:** Deborah Habian**Claim #:****File #:**

3014CPK

Description	Each	Quan	Total
Attendance: Dep (write)	\$23.75	6	\$142.50
Original: reg deliv (dep)	\$3.30	151	\$498.30
Condensed tran w/ index	\$35.00	1	\$35.00
E-Transcript	\$40.00	0	\$0.00
Delivery charge	\$10.00	1	\$10.00
Terms: Net 30 days	\$0.00	0	\$0.00
Sub Total			\$685.80
Payments			\$0.00
Balance Due			\$685.80

Fed. I.D. # 20-8622561

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Johnstone Greene LLC Business & Government Litigation 542 S. Dearborn Street, Suite 1100 Chicago, IL 60605 (312) 341-3808		AMERICAN CHARTERED BANK 70-0294/719	5857 5/4/2010
PAY TO THE ORDER OF Chinnick Court Reporting & Video, Inc. Six Hundred Eighty-Five and 00/100		\$ 685.00	5857
Chinnick Court Reporting & Video, Inc. 33 North Dearborn Street Suite 1301 Chicago, IL 60602		1304954	

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CHICAGO, ILLINOIS 60670
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& VIDEO, INC
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Chicago, IL 60602

Phone: (312) 781-9111

Fax: (312) 332-6555

Invoice Date

Wednesday, April 14, 2010

Invoice #

3307CPK

Iain D. Johnston
 Johnston Greene
 542 South Dearborn
 11th Floor
 Chicago, IL 60605

*pd. 6/10/10
 check # 5919*

Phone: (312) 341-3900 Fax:

Witness: David Bamberg**Case:** Hutchinson vs. City of Evanston**Venue:****Case #:** 09 CV 4810**Date:** 3/25/2010**Start Time:** 3:00 PM**End Time:** : 0**Reporter:** Deralyn Gordon**Claim #:****File #:**

3138CPK

Description	Each	Quan	Total
Attendance: Court (write) minimum (2 hr)	\$130.00	1	\$130.00
Original: reg deliv (court)	\$4.30	99	\$425.70
Delivery charge	\$10.00	1	\$10.00
Terms: Net 30 days	\$0.00	0	\$0.00
Sub Total			\$565.70
Payments			\$0.00
Balance Due			\$565.70

Fed. I.D. # 20-8622561

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Suite 1301

Chicago, IL 60602

Phone: (312) 781-9111

Fax: (312) 332-6555

Invoice Date

Tuesday, April 13, 2010

Invoice #

3333CPK

Iain D. Johnston
 Johnston Greene
 542 South Dearborn
 11th Floor
 Chicago, IL 60605

*pd. 6/10/10
 check # 5919*

Phone: (312) 341-3900 Fax:

Witness: Marjorie Figaro**Case:** Hutchison vs. Evanston**Venue:****Case #:****Date:** 4/5/2010**Start Time:** 1:00 PM**End Time:** : 0**Reporter:** Maggie Cimms**Claim #:****File #:**

3105CPK

Description	Each	Quan	Total
Attendance: Dep (no-write) minimum (2 hr)	\$130.00	1	\$130.00
Terms: Net 30 days	\$0.00	1	\$0.00
Sub Total			\$130.00
Payments			\$0.00
Balance Due			\$130.00

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JOHNSON GREENE LLC Business & Government Litigation 642 S. Dearborn Street, Suite 1100 Chicago, IL 60605 (312) 341-2800		AMERICAN CHARTERED BANK 75-8304718	5919 6/10/2010
PAY TO THE ORDER OF Chinnick Court Reporting & Video, Inc. One Thousand Two Hundred Fifteen and 10/100		\$ 1,215.10	DOLLARS
Chinnick Court Reporting & Video, Inc. 33 North Dearborn Street Suite 1301 Chicago, IL 60602		#005919# #071925046# #1304954#	

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Chicago, IL 60602

Phone: (312) 781-9111

Fax: (312) 332-6555

Invoice Date
Monday, May 03, 2010

Invoice #
3366CPK

Iain D. Johnston
 Johnston Greene
 542 South Dearborn
 11th Floor
 Chicago, IL 60605

Phone: (312) 341-3900 Fax:

Witness: Ms. Figaro**Case:** Hutchison vs. Evanston**Venue:****Case #:****Date:** 4/19/2010**Start Time:** 1:00 PM**End Time:** : 0**Reporter:** Laurie Kogen**Claim #:****File #:**

3184CPK

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ORIGREG/DE	Original: reg deliv (dep)	\$3.30	126	\$415.80
ETRANS	E-Transcript	\$40.00	1	\$40.00
TRMS30	Terms: Net 30 days	\$0.00	0	\$0.00
Sub Total				\$645.80
Payments				\$0.00
Balance Due				\$645.80

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Fed. I.D. # 20-8622561

We appreciate your business!

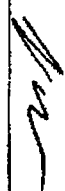
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Johnson Greene LLC Business & Government Litigation 542 S. Dearborn Street, Suite 1100 Chicago, IL 60605 (312) 341-3800		AMERICAN COMMITTEED BANK 75-8204718	5873
PAY TO THE ORDER OF Chalmiak Court Reporting & Video, Inc.		6/29/2010	
Six Hundred Forty-Five and 80/100		\$ 945.00	
Chalmiak Court Reporting & Video, Inc. 33 North Dearborn Street Suite 1301 Chicago, IL 60602		TOLLARS @	
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Invoice

Iain D. Johnston
Johnston Greene
542 South Dearborn
11th Floor
Chicago, IL 60605

Invoice Date	Invoice #
8/3/2010	3497CPK

Description	Each	Quan	Total
Attendance: Dep (write) minimum (2 hr)	\$95.00	1	\$95.00
Original: reg deliv (dep)	\$3.30	51	\$168.30
Delivery charge - Exhibits	\$10.00	1	\$10.00
THANK YOU FOR USING OUR SERVICES	\$0.00	0	\$0.00
	Sub Total		\$273.30
	Payments		\$0.00
	Balance Due		\$273.30

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Check #16100
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Exp. Date

Johnston Greene LLC Business & Government Litigation 542 S. Dearborn Street, Suite 1100 Chicago, IL 60605 (312) 341-3900		AMERICAN CHARTERED BANK 70-2504719		0100
PAY TO THE ORDER OF <u>Chimniak Court Reporting & Video, Inc.</u>		<u>9/23/2010</u>		
		\$ **273.30		
		***** DOLLARS		
<u>Two Hundred Seventy-Three and 30/100</u>				
Chimniak Court Reporting & Video, Inc. 33 North Dearborn Street Suite 1301 Chicago, IL 60602				
MICRO				
3497CPK - Deposition of Dr. Rick Gimbel.				
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JPMORGAN CHASE BANK, N.A.
CHICAGO, ILLINOIS 60670
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January 14, 2011 15:27 Page: 1
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MasterCard #: XXXXXXXXXXXXXXX9033
2011/01/14 15:19

Qty	Description	Amount
5	Minutes:IL2007CRW01	1.25
2	Prints:Color_Printer 4	1.98
2	Prints:Color_Printer 7	1.98
8	Prints:Color_Printer 10	7.92
4	Prints:Color_Printer 13	3.96
SubTotal		17.09
Taxes		0.88
Total		17.97

The Cardholder agrees to pay the Issuer of the charge card in accordance with the agreement between the Issuer and the Cardholder.

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Invoice #: 0071760189

Date: 12/29/2009

Customer #: 1539327

Ship to:

JOHNSTON GREENE LLC
 JOHNSTON GREENE LLC
 542 S DEARBORN STREET
 STE 1100
 CHICAGO, IL 60605

Bill to:

JOHNSTON GREENE LLC
 JOHNSTON GREENE LLC
 542 S DEARBORN STREET
 STE 1100
 CHICAGO, IL 60605

Records from:

NSUHS EVANSTON HOSPITAL
 4901 SEARLE PKWY SUITE 170
 SKOKIE, IL 60077

Requested By: JOHNSTON GREENE LLC

SSN: ..

*****1522

Patient Name: HUTCHISON RONALD

Description	Quantity	Unit Price	Amount
Basic Fee			23.80
Retrieval Fee			0.00
Per Page Copy (Paper) 1	44	0.30	13.20
Per Page Copy (Paper) 2	25	0.59	14.75
Per Page Copy (Paper) 3	25	0.89	22.25
Shipping/Handling			4.90
Subtotal			78.90
Sales Tax			0.00
Invoice Total			78.90
Less Payment			-40.00
Balance Due			38.90

pd 1/20/10
CH# 5732

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Terms: Net 30 days Please remit this amount : \$ 38.90 (USD)

HealthPort

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 Atlanta, Georgia 30384-9740
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 (770) 754 - 6000

Invoice #: 0071760189

Check # _____

Payment Amount \$ _____

Please return stub with payment.

Please include invoice number on check.

To pay invoice online, please go to www.HealthPortPay.com or call (770) 754 6000.

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Jefferson Greene LLC Business & Government Litigation 942 N. Dearborn Street, Suite 1100 Chicago, IL 60605 (312) 341-3800		AMERICAN OVERSEAS BANK 74-200715		5732
PAY TO THE ORDER OF		Healthport		1/20/2010
— Thirty-Eight and 90/100 —		\$ 38.00		
Healthport P.O. Box 409740 Atlanta, Georgia 30384-9740		⑆005732⑆ ⑆071925046⑆ ⑆1304954⑆		
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HealthPort
P.O. Box 409740
Atlanta, Georgia 30384-9740
Fed Tax ID 58 - 2659941
(770) 754 - 6000



Invoice #: 0073036168
Date: 2/5/2010
Customer #: 1539327

Ship to:

JOHNSTON GREENE LLC
JOHNSTON GREENE LLC
542 S DEARBORN STREET
STE 1100
CHICAGO, IL 60605

Bill to:

JOHNSTON GREENE LLC
JOHNSTON GREENE LLC
542 S DEARBORN STREET
STE 1100
CHICAGO, IL 60605

Records from:

SAINT FRANCIS HOSPITAL
355 RIDGE AVE
EVANSTON, IL 60202

Requested By: JOHNSTON GREENE LLC
Patient Name: HUTCHISON RONALD

SSN: *****2215
DOB: 100774

Description	Quantity	Unit Price	Amount
Basic Fee			24.44
Retrieval Fee			0.00
Per Page Copy (Paper) 1	4	0.61	2.44
Per Page Copy (Paper) 2	25	0.92	23.00
Shipping/Handling			2.24
Subtotal			52.12
Sales Tax			0.00
Invoice Total			52.12
Balance Due			52.12
Pay your invoice online at www.HealthPortPay.com			
Terms: Net 30 days		Please remit this amount : \$ 52.12 (USD)	

HealthPort
P.O. Box 409740
Atlanta, Georgia 30384-9740
Fed Tax ID 58 - 2659941
(770) 754 - 6000

Invoice #: 0073036168

Check # _____

Payment Amount \$ _____

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Please include invoice number on check.

To pay invoice online, please go to www.HealthPortPay.com or call (770) 754 6000.

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E2E541100665000

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AMERICAN MANAGEMENT LLC Business & Government Properties 1401 S. Dearborn Street, Suite 1100 Chicago, IL 60605 (312) 341-3900		
PAY TO THE ORDER OF <u>Healthport</u>		\$ <u>52.12</u>
<u>Twenty-Two and 12/100</u>		<u>52</u> DOLLARS 00/100
Healthport P.O. Box 408740 Atlanta, Georgia 30384-8740		
005805 C0719250462 *1304954*		

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BANK OF AMERICA

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409740 010543 rbl/awm/c 3612 49 1

AO88B (Rev. 01/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

RONALD HUTCHISON,

Plaintiff,

Civil Action No. 09 C 4810

v.

(If the action is pending in another district, state

where:

CITY OF EVANSTON, et al.,

Defendants.

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES

TO: Delcine Thompson, Esq.
Illinois Department of Corrections
100 W. Randolph Street, Suite 4-200
Chicago, IL 60601

☒ **Production:** YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: **Copies of any and all documents relating to the current location, residence, contact information and telephone number of David Bamberg M01009, date of birth 5/26/86.**

Place: Johnston Greene LLC, 542 South Dearborn Street, Suite 1100, Chicago, Illinois 60605	Date and Time: March 15, 2010
---	----------------------------------

☐ **Inspection of Premises:** YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set for forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
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The provisions of Fed. R. Civ. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences or not doing so, are attached.

Date: February 24, 2010

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing defendants who issues or requests this subpoena, are:

Iain Johnston, Johnston Greene LLC, 542 S. Dearborn St., Suite 1100, Chicago, Illinois 60605
ijohnston@johnstongreene.com, Phone: (312) 341-3900

AO 88B (Rev. 01/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises (Page 2)

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for (name of individual and title, if any) Delaine Thompson, II Dept. of Corrections
was received by me on (date) 2/24/10.

☐ I personally served the subpoena on the individual at (place) _____
on (date) _____; or

☐ I left the subpoena at the individual's residence or usual place of abode with (name) _____
_____, a person of suitable age and discretion who resides there,
on (date) _____, and mailed a copy to the individual's last known address; or

☐ I served the subpoena to (name of individual) _____, who is
designated by law to accept service of process on behalf of (name of organization) _____
on (date) _____; or

☐ I returned the subpoena unexecuted because _____; or

☒ Other (specify): Certified Mail (# 7009 2250 0003 8826 7672)

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ 40.00.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: 2/24/10

Lisa Davlin
Server's signature

Lisa Davlin, Paralegal
Printed name and title

Johnston Greene LLC, 542 S. Dearborn St., Suite 1100,
Server's address Chicago, IL 60605

Additional information regarding attempted service, etc:

Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)**(c) Protecting a Person Subject to a Subpoena.**

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) *Contempt.* The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

AO88B (Rev. 01/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

RONALD HUTCHISON,

Plaintiff,

v.

Civil Action No. 09 C 4810

(If the action is pending in another district, state

CITY OF EVANSTON, et al.,

Defendants.

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES

TO: Evanston Northwestern Hospital
Attn: Health Information Management Dept., Keeper of Records
2650 Ridge Avenue
Evanston, Illinois 60201

☒ **Production: YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: **Copies of all medical records relating to Ronald Hutchison, SSN # 348-62-1522, including but not limited to all records relating to his admission and treatment on or about July 26-28, 2008. (An Authorization to Disclose Medical Information signed by Mr. Hutchison is attached.)**

Place:

Johnston Greene LLC, 542 South Dearborn Street, Suite 1100, Chicago, Illinois 60605

Date and Time:

January 28, 2010

☐ **Inspection of Premises: YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The provisions of Fed. R. Civ. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences or not doing so, are attached.

Date: December 16, 2009

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's Signature

The name, address, e-mail, and telephone number of the attorney representing defendants who issues or requests this subpoena, are:

Iain Johnston, Johnston Greene LLC, 542 S. Dearborn St., Suite 1100, Chicago, Illinois 60605
ijohnston@johnstongreene.com, Phone: (312) 341-3900

AO 88B (Rev. 01/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises (Page 2)

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

This subpoena for (name of individual and title, if any) Evanston Northwestern Hospital
 was received by me on (date) 12/17/09.

☐ I personally served the subpoena on the individual at (place) _____
 on (date) _____; or

☐ I left the subpoena at the individual's residence or usual place of abode with (name) _____
 _____, a person of suitable age and discretion who resides there,
 on (date) _____, and mailed a copy to the individual's last known address; or

☐ I served the subpoena to (name of individual) _____, who is
 designated by law to accept service of process on behalf of (name of organization) _____
 on (date) _____; or

☐ I returned the subpoena unexecuted because _____; or

☒ Other (specify):

Certified Mail

7009 0060 0001 1962 7200

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
 tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of
 \$ 40.00.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date:

12/17/09

Lisa Davlin

Server's signature

Lisa Davlin, Paralegal

Printed name and title

542 S. Dearborn, #1100, Chicago, IL 60605

Server's address

Additional information regarding attempted service, etc:

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(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) *Contempt.* The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

AUTHORIZATION TO DISCLOSE MEDICAL INFORMATION

I allow all medical facilities, hospitals, clinics, labs, physicians, psychiatrists, mental health providers, insurance sources, and other providers (together "Records Holders") to give my medical information to Iain D. Johnston and/or Johnston Greene LLC (collectively the "Law Firm"). This includes, but is not limited to, my entire medical file, any spoken, written, photographic or electronic records, information or facts about my medical condition. It also includes test results, supplies, charts, lab reports, x-rays, studies, medication reports, billing records, and payment records (together called "Information").

I know that anyone at the Law Firm or anyone working with the Law Firm may use my Information will be used solely for legal matters handled by the Law Firm relating to the lawsuit I filed, which is captioned *Hutchinson v. City of Evanston* 09 CV 4810 ("Lawsuit"). I also know that my Information may be disclosed to consultants and experts hired by the Law Firm and will be held in a confidential manner by such consultants and experts. The Law Firm will keep the Information confidential pursuant to the terms of any Protective Order entered in the Lawsuit.

I know that my Information may also contain alcohol, drug or other substance abuse information. It may also contain facts about my mental health or test data used by my doctors. If so, I allow the sharing of this Information with the Law Firm. I give up and waive any protections under Federal and State laws.

I know that my Information may also contain other very private information about sexually transmissible diseases (such as hepatitis, syphilis, or gonorrhea), human immune deficiency virus (HIV) or acquired immune deficiency syndrome (AIDS) tests and results. If so, I allow the sharing of this information, including the HIV or AIDS test results with the Law Firm. I give up and waive the protections under Federal and State Laws.

I understand that if my Information is given out as allowed in this form, Federal privacy laws will not protect it, but the Information may be still marked as "Confidential" and used solely for purposes of this lawsuit and held in a confidential manner by the Law Firm.

I understand that this form lasts until the Lawsuit is disposed of by the Court. If I change my mind before that time and do not want the Law Firm to get any more information from my Records Holders, I can revoke this form at any time by sending a letter to the Law Firm at the following address:

Iain D. Johnston
Johnston Greene LLC
542 S. Dearborn, Suite 1100
Chicago, IL 60605


If I send this letter, it will not change any actions my Records Holders took before the letter was received.

I know that signing this form is voluntary. If I do not sign this form, it will not affect how my health care providers treat me or my enrollment in a health plan.

I agree that a copy of this form may be treated as a signed original.

Patient's Name: Ronald Hutchison Social Security #:

Patient's Date of Birth:


Patient's Signature

12/03/09
Date

071000301
01/15/2010
6414310750

This is a LEGAL COPY of
your check. You can use it
the same way you would
use the original check.

0102/11/10 [8E1000110]
E01911100665000

Johnston Greene LLC Business & Government Litigation 542 S. Dearborn Street, Suite 1100 Chicago, IL 60605 (312) 341-5800		144 SLK0UKK100003E7F ADDITIONAL CHECKS TO 304719	5885 12/17/2009
PAY TO THE ORDER OF Evanston Northwestern Hospital		\$40.00	
Forty and 00/100		\$	DOLLARS
Evanston Northwestern Hospital ATTN: Keeper of Medical Records 2650 Ridge Avenue Evanston, IL 60201		005685 071925016 1304954	

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005685

910000022 01/14/2010
007792881272
071000301 01/15/2010
6414310750

↓ Do not endorse or write below this line. ↓

B-8221 14
20100114
3255696785
172 ATL-404119

>011000138<
CR PAYEE ACCT
LACK END GTD
BANK OF AMERICA

>011000138< 01/14/2010
000599001116103

404119 004918 nbk31e6 3600 1 18

Job #: 100121NH

Urlaub Bowen & Associates, Inc.

20 N. Clark Street

Suite 1260

Chicago, IL 60602

Phone: (312) 781-9586 Fax: (312) 781-9228

Job Date: 01/21/2010

Order Date: 01/21/2010

DB Ref.#:

Date of Loss: / /

Your File #:

Your Client: Defendants

Invoice

Invoice #: 77937

Inv.Date: 01/27/2011

Balance: \$347.44

Bill To:

Mr. Iain D. Johnston
Johnston & Greene LLC
542 S Dearborn St
Ste 1100
Chicago, IL 60605

Action: Hutchinson, Ronald

VS

City of Evanston**Action #: 09 C 4810****Rep: NH****Cert: 084-004672**

Item	Proceeding/Witness	Description	Quantity	Price	Disc. Amt.	Amount
1	Matthew George	Certified Transcript	128	\$2.65	\$16.96	\$322.24
2		Word index	18.00	\$1.00	\$0.00	\$18.00
3		Exhibits - Scanned	18.00	\$0.40	\$0.00	\$7.20

Comments:

225 ILCS 415/28 "A person certified under this Act may hold any attorney, firm or any other entity personally responsible for payment of shorthand reporting services rendered at the request of that attorney, firm or entity."

Federal Tax I.D.: 36-3368198

Terms: Net 30 Days @ 1.5%

Sub Total	\$347.44
Shipping	\$0.00
Tax	N/A
Total Invoice	\$347.44
Payment	\$0.00
Balance Due	\$347.44

Please KEEP THIS PART for YOUR RECORDS.

Please FOLD then TEAR HERE and RETURN THIS PART with PAYMENT.

Bill To:

Mr. Iain D. Johnston
Johnston & Greene LLC
542 S Dearborn St
Ste 1100
Chicago, IL 60605

Deliver To:

Mr. Iain D. Johnston
Johnston & Greene LLC
542 S Dearborn St
Ste 1100
Chicago, IL 60605

Invoice

Invoice #: 77937

Inv.Date: 01/27/2011

Balance: \$347.44

Job #: 100121NH

Job Date: 01/21/2010

DB Ref.#:

Date of Loss: / /

Your File #:

Your Client: Defendants

REMIT PAYMENT TO

URLAUB BOWEN & ASSOCIATES, INC.
PO BOX 64637
CHICAGO, IL 60664-0637

Urlaub Bowen & Associates, Inc.

20 N. Clark Street

Suite 1260

Chicago, IL 60602

Phone: (312) 781-9586 Fax: (312) 781-9228

Job #: 100122SAK
Job Date: 01/22/2010

Order Date: 01/22/2010

DB Ref. #:

Date of Loss: / /

Your File #:

Your Client: Defendants

Invoice

Invoice #: 77943

Inv. Date: 01/27/2011

Balance: \$143.94

Bill To:Mr. Iain D. Johnston
Johnston & Greene LLC
542 S Dearborn St
Ste 1100
Chicago, IL 60605**Action: Hutchinson, Ronald**

VS

City of Evanston

Action #: 09 C 4810

Rep: SAK

Cert: 084-002346

Item	Proceeding/Witness	Description	Quantity	Price	Disc. Amt.	Amount
1	Kenneth Carter	Certified Transcript	54	\$2.65	\$7.16	\$135.94
2		Word index	8.00	\$1.00	\$0.00	\$8.00

Comments:

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Federal Tax I.D.: 36-3368198

Terms: Net 30 Days @ 1.5%

Sub Total \$143.94

Shipping \$0.00

Tax N/A

Total Invoice \$143.94

Payment \$0.00

Balance Due \$143.94

Please KEEP THIS PART for YOUR RECORDS.

Please FOLD then TEAR HERE and RETURN THIS PART with PAYMENT.

Bill To:Mr. Iain D. Johnston
Johnston & Greene LLC
542 S Dearborn St
Ste 1100
Chicago, IL 60605**Deliver To:**Mr. Iain D. Johnston
Johnston & Greene LLC
542 S Dearborn St
Ste 1100
Chicago, IL 60605

Invoice #: 77943

Inv. Date: 01/27/2011

Balance: \$143.94

Job #: 100122SAK

Job Date: 01/22/2010

DB Ref. #:

Date of Loss: / /

Your File #:

Your Client: Defendants

Invoice**REMIT PAYMENT TO**URLAUB BOWEN & ASSOCIATES, INC.
PO BOX 64637
CHICAGO, IL 60664-0637

UNITED STATES DISTRICT COURT

for the

Northern District of Illinois

RONALD HUTCHISON

v.

CITY OF EVANSTON, et al.

Case No.: 09 CV 4810

Bill of Costs

Judgment having been entered in the above entitled action 02/10/2011 against Plaintiff,
Date

the Clerk is requested to tax the following as costs:

Fees of the Clerk	\$ _____
Fees for service of summons and subpoena	_____
Fees of the court reporter for all or any part of the transcript necessarily obtained for use in the case	<u>2,791.98</u>
Fees and disbursements for printing	_____
Fees for witnesses (itemize on page two)	<u>80.00</u>
Fees for exemplification and copies of papers necessarily obtained for use in the case	<u>108.99</u>
Docket fees under 28 U.S.C. 1923	_____
Costs as shown on Mandate of Court of Appeals	_____
Compensation of court-appointed experts	_____
Compensation of interpreters and costs of special interpretation services under 28 U.S.C. 1828	_____
Other costs (please itemize)	_____
TOTAL	\$ <u>2,980.97</u>

SPECIAL NOTE: Attach to your bill an itemization and documentation for requested costs in all categories.

Declaration

I declare under penalty of perjury that the foregoing costs are correct and were necessarily incurred in this action and that the services for which fees have been charged were actually and necessarily performed. A copy of this bill has been served on all parties in the following manner:

- ☒ Electronic service by e-mail as set forth below and/or.
- ☐ Conventional service by first class mail, postage prepaid as set forth below.

s/ Attorney: _____

Name of Attorney: Iain D. JohnstonFor: City of Evanston and Evanston Police Officer Matt George

Name of Claiming Party

Date: 02/18/2011

Costs are taxed in the amount of _____ and included in the judgment.

Clerk of Court _____

By: _____
Deputy Clerk

Date _____

Witness Fees (computation, cf. 28 U.S.C. 1821 for statutory fees)

NOTICE

"Sec. 1924. Verification of bill of costs."

See also Section 1920 of Title 28, which reads in part as follows:

"A bill of costs shall be filed in the case and, upon allowance, included in the judgment or decree."

The Federal Rules of Civil Procedure contain the following provisions:

RULE 54(d)(1)

Costs Other than Attorneys' Fees.

Unless a federal statute, these rules, or a court order provides otherwise, costs — other than attorney's fees — should be allowed to the prevailing party. But costs against the United States, its officers, and its agencies may be imposed only to the extent allowed by law. The clerk may tax costs on 1 day's notice. On motion served within the next 5 days, the court may review the clerk's action

RULE 6

(d) Additional Time After Certain Kinds of Service.

When a party may or must act within a specified time after service and service is made under Rule 5(b)(2)(C), (D), (E), or (F), 3 days are added after the period would otherwise expire under Rule 6(a).

RULE 58(e)

Cost or Fee Awards:

Ordinarily, the entry of judgment may not be delayed, nor the time for appeal extended, in order to tax costs or award fees. But if a timely motion for attorney's fees is made under Rule 54(d)(2), the court may act before a notice of appeal has been filed and become effective to order that the motion have the same effect under Federal Rule of Appellate Procedure 4(a)(4) as a timely motion under Rule 59.